



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,279	05/31/2001	Eugene C. Nelson	32668	8624

116 7590 02/28/2007
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT	PAPER NUMBER
----------	--------------

3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/871,279

Applicant(s)

NELSON, EUGENE C.

Examiner

Johnna R. Loftis

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/15/06 has been entered.

DETAILED ACTION

2. The following is a non-final office action upon examination of application number 09/871,279. Claims 2, 4, 5 and 7-11 have been cancelled. Claims 1, 3, 6, and 12-21 are pending and have been examined on the merits discussed below.

Response to Arguments

3. Applicant's arguments filed 12/15/06 have been fully considered but they are not persuasive. Applicant argues that Raissyan et al does not teach a survey system. Examiner asserts that the questioning and answering system of Raissyan et al constitutes a survey system for purposes of examination. Previous rejections are upheld. Applicant also argues remaining claims as newly amended. New amendments to the claims are addressed in the rejections supplied below.

4. In addition, new claim objections have been introduced in view of newly added claims 19-21.

Claim Objections

5. Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends (35 U.S.C. 112, fourth paragraph) or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim. In the instant case, claim 19 only includes system elements for storing questions, presenting and displaying questions, and voice recognition, however, there are no system elements for requesting participation of the participant.

6. Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends (35 U.S.C. 112, fourth paragraph) or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim. In the instant case, claim 20 only includes system elements for storing questions, presenting and displaying questions, and presenting a survey report, however, there are no system elements for requesting participation of the participant.

7. Claim 21 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

Art Unit: 3623

claim(s) in independent form. The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends (35 U.S.C. 112, fourth paragraph) or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim. In the instant case, claim 21 only includes system elements for storing and presenting questions, and voice recognition; however, there are no system elements for voice recognition or requesting participation of the participant.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Raissyan et al, US 5,703,935.

As per **claim 1**, Raissyan et al teaches a server for serving a first questioning series of core item questions developed to support a survey purpose (column 8, lines 55-60 – the caller responds to the system offering collect calls by telephone keypad input); a server is also for serving a second questioning series of drill-down questions, wherein each of the drill-down questions is associated with one of the core item questions or another drill-down question and is presented only when a response to the associated question meets specified criterion (column 8, line 55–60 and column 10, lines 32-65 – caller is diverted through a subprocess for implementing

Art Unit: 3623

the collect call wherein questions are asked and upon answering another question is asked to collect all pertinent information to make the collect all); a database for storing survey participant answers to said core item questions and/or said drill-down questions (column 5, lines 15-20 – a database stores caller information, i.e., credit card information) and a survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user (column 5, lines 15-20 - a database stores caller information, i.e., credit card information; inherently this is displayed on the computer display).

As per **claim 3**, Raissayan et al teaches the second questioning series includes verbatim questions, and wherein said system includes a voice recorder for recording said verbatim answers given by survey participant, wherein said recorded verbatim answer is stored in said database by said system (column 6, lines 35-40 – voice processor uses voice recognition); wherein a verbatim question is presented only when a response to a previous question meets a specified criterion, (column 8, line 55–60 and column 10, lines 32-65 – caller is diverted through a subprocess for implementing the collect call wherein questions are asked and upon answering another question is asked to collect all pertinent information to make the collect all).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3623

11. Claims 6 and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raissayan et al, US 5,703,935.

As per **claim 6**, Raissayan et al teaches presenting a first core item question to a survey participant and recording a response to the first core item question in a database (column 8, lines 55-60 – the caller responds to the system offering collect calls by telephone keypad input; column 5, lines 15-20 - a database stores caller information, i.e., credit card information); automatically interpreting the first core item response for meeting a specified criterion (column 55-60 – keypad input is interpreted); presenting at least one drill-down question to the participant and recording a response of the participant to the drill-down question in the database, said presenting of said at least one drill-down question occurring only if the first core item response meets a specified criterion (column 8, line 55–60 and column 10, lines 32-65 – caller is diverted through a subprocess for implementing the collect call wherein questions are asked and upon answering another question is asked to collect all pertinent information to make the collect all); automatically interpreting the response to the drill-down question for being within a predetermined range, and presenting at least one verbatim question to the participant and recording a verbal response of the participant in the database, said presenting of said at least one verbatim question occurring only if the drill-down response is not within a predetermined acceptable response range (column 9, lines 52-59 – if the menu has been repeated a number of times exceeding a preselected threshold, the caller is transferred to a live operator to make a verbal response); and presenting a second core item question and recording a response to the second core item question (column 7, lines 64-67 – the manual operator takes over and presents the options); Raissayan et al does not explicitly teach automatically compiling and presenting a

Art Unit: 3623

survey report to a user, said survey report utilizing answers collected from said survey participant for said report. However, since Raissayan et al teaches a database to store caller information (column 5, lines 15-20 – a database stores caller information, i.e., credit card information), official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to compile and present a survey report to a user as a way to convey caller information collected as a result of the questions asked during the call. This information could be used to quality control purposes.

As per **claim 12**, Raissayan et al teaches a voice recognition subsystem for converting vocal answers of the participant to said questions into non-vocal data for storing in said database (column 6, lines 35-63 – voice recognition capabilities).

As per **claim 13**, Raissayan et al teaches a display for presenting said questions to an agent, wherein said system monitors said answers of the participant and switches to a manual survey mode if the participant requests a transfer to said manual survey mode or said system switches to said manual survey mode in response to an evaluation of one or more of said answers of the participant or in response to a lack of an expected answer of the participant, and wherein the server serves the same question to the agent that said server would automatically present to the participant so that the agent can present said same question to the participant (column 6, lines 64-67 – the system contains both an automated response unit (ARU) which works in parallel with a manual operator terminal; upon detection of non-response, the manual operator intercepts the automated system; column 7, lines 5-10 – flow control of manually handled calls matches the automated call processing so that transfer from automatic to manual can be picked up at any time without loss of continuity).

Art Unit: 3623

As per **claim 14**, Raissyan et al teaches the user is validated by said system prior to said survey result (column 5, lines 15-20 – validation database is used to validate user information prior to call processing).

As per **claim 15**, Raissyan et al teaches a list of core item questions, drill down questions and verbatim questions (column 7, lines 18-41 – scripts are used for collecting information (asking question) from the caller); if the participant agrees to participate in the survey: presenting a first questioning series of core item questions to the survey participant (column 8, lines 55-60 – the caller responds to the system offering collect calls by telephone keypad input); storing survey participant answers to said core item questions wherein recording includes voice recognition (column 5, lines 15-20 – a database stores caller information, i.e., credit card information; column 6, lines 35-40 – voice processor uses voice recognition); automatically presenting at least one of said drill-down questions to the survey participant only if said answer of the participant to a prior presented core item question or a prior present drill-down question associated with said at least one drill-down question meets a specified criterion (column 8, line 55–60 and column 10, lines 32-65 – caller is diverted through a subprocess for implementing the collect call wherein questions are asked and upon answering another question is asked to collect all pertinent information to make the collect call); storing survey participant answers to said at least one drill down question wherein recording includes voice recognition (column 5, lines 15-20 – a database stores caller information, i.e., credit card information; column 6, lines 35-40 – voice processor uses voice recognition); automatically presenting at least one of said verbatim questions to the survey participant; verbatim question is presented only when a response to a previous question meets a specified criterion, (column 8, line 55–60 and column 10, lines 32-65

Art Unit: 3623

– caller is diverted through a subprocess for implementing the collect call wherein questions are asked and upon answering another question is asked to collect all pertinent information to make the collect call); recording answer of survey participant to said at least one verbatim question and storing in database (column 5, lines 15-20 – a database stores caller information, i.e., credit card information; column 6, lines 35-40 – voice processor uses voice recognition); automatically transferring from said automated survey to a manual survey if one of more of (1) the participant requests and agent, (2) the participant fails to responds to a question, and (3) an answer given by the participant meets at least one specified criterion (column 6, lines 64-67 – the system contains both an automated response unit (ARU) which works in parallel with a manual operator terminal; upon detection of non-response, the manual operator intercepts the automated system); if the participant does not agree to an automated survey, requesting the participant to participate in said manual survey, or if transferred from said automated survey, conduction said automated survey wherein said manual survey utilizes the automated survey method except that said questions are first automatically presented to one of the agents and then provided by said one of the agents to the participants (column 6, lines 64-67 – the system contains both an automated response unit (ARU) which works in parallel with a manual operator terminal; upon detection of non-response, the manual operator intercepts the automated system). Raissayan et al does not explicitly teach automatically compiling and presenting a survey report to a user, said survey report utilizing answers collected from said survey participant for said report. However, since Raissayan et al teaches a database to store caller information (column 5, lines 15-20 – a database stores caller information, i.e., credit card information), official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to compile and present a survey

Art Unit: 3623

report to a user as a way to convey caller information collected as a result of the questions asked during the call. This information could be used to quality control purposes.

As per **claim 16**, Raissayan et al teaches non of the answers provided by the participant are provided using a touch-tone phone (column 6, lines 35-64 – voice process for voice recognition and response in multiple languages).

As per **claim 17**, Raissayan et al does not explicitly teach automatically compiling and presenting a survey report to a user, said survey report utilizing answers collected from said survey participant for said report. However, since Raissayan et al teaches a database to store caller information (column 5, lines 15-20 – a database stores caller information, i.e., credit card information), official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to compile and present a survey report to a user as a way to convey caller information collected as a result of the questions asked during the call. This information could be used to quality control purposes.

As per **claim 18**, Raissayan et al teaches all of the answers provided by the participant are provided orally and wherein all of the said answers except answers to said verbatim questions are interpreted by using automated voice recognition (column 6, lines 35-64 – voice processing for voice recognition and response in multiple languages).

As per **claims 19-21**, Raissayan et al teaches a computer system for performing the method of claims 15-18 (column 5, lines 21-45). Therefore the same rejection as applied to claims 15-18 are also applied to claim 19-21.

Art Unit: 3623

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

2/23/07

Romain J. Jantty
Primary Examiner
Art Unit 3623